*621 44 S.Ct. 621

265 U.S. 472, 68 L.Ed. 1110

Supreme Court of the United States.

UNITED STATES
v.
TITLE INS. & TRUST CO. et al.

No. 358.
Argued Feb. 28, 1924.

Decided June 9, 1924.

Appeal from the United States Circuit Court of Appeals for the Ninth Circuit.

Suit by the United States against the Title Insurance & Trust Company and others. Decree of dismissal was affirmed by the Circuit Court of Appeals (288 Fed. 821), and plaintiff appeals. Affirmed.

West Headnotes

Courts ⇐92

106 ----
106II Establishment, Organization, and Procedure
106II(G) Rules of Decision
106k88 Previous Decisions as Controlling or as Precedents
106k92 Dicta.

Where there are two grounds on either of which an appellate court may rest its decision, and it adopts both, the ruling on neither is obiter, but each is the judgment of the court, and of equal validity with the other.

Courts ⇐93(1)

106 ----
106II Establishment, Organization, and Procedure
106II(G) Rules of Decision
106k88 Previous Decisions as Controlling or as Precedents
106k93 Rules of Property
106k93(1) In General.

Supreme Court's decision that Indian's claim to land in Southern California was lost by failure to present claim to commission created to adjudicate private land claims in such territory within 2 years, under Act March 3, 1851, 9 Stat. 631, c. 41, relied on in purchase of property for more than 23 years, held rule of property, which court will not disturb.

Indians ⇐10

209 ----
209k9 Lands
209k10 Title and Rights to Indian Lands in General.

[See headnote text below]

United States ⇐105

393 ----
393VIII Claims Against United States
393k105 Claims Under Indian Treaties or Statutes for Relief of Indians.

Indians' claim to land in Southern California, not presented to and adjudicated by commission created by Act March 3, 1851, 9 Stat. 631, within time specified therein, held abandoned.

[265 U.S. 473] The Attorney General and Mr. George A. H. Fraser, of Denver, Colo., for the United States.

[265 U.S. 480] Mr. Walter K. Tuller, of Los Angeles, Cal., for appellees.

[265 U.S. 481] Mr. Justice VAN DEVANTER delivered the opinion of the Court.

This is a suit by the United States, as guardian of certain Mission Indians, to quiet in them a 'perpetual right' to occupy, use, and enjoy a part of a confirmed Mexican land grant in Southern California, for which the defendants hold a patent from the United States. The District Court dismissed the bill, as not showing a cause of action, and its decree was affirmed by the Circuit Court of Appeals. 288 Fed. 821.

The grant was made by Mexico in 1843. After California was ceded to the United States, Congress, in 1851, passed an act providing for the ascertainment and adjudication of private land claims in the ceded territory. 9 Stat. 631, c. 41. The act created a commission to consider and pass on such claims; provided for a review in the District Court of that district, and for a further review in this court; required that the claims be presented to the commission within 2 years, in default of which they were to be regarded as abandoned; provided for the

issue of patents on such as were confirmed; and declared the patents should be 'conclusive between the United States and the said claimants,' but should not 'affect the interests of third persons.' This grant was presented *622 to the commission, and, after a hearing in which the United States participated, was confirmed. On an appeal by the United States the District Court affirmed that decision, and a further appeal to this court was abandoned [265 U.S. 482] and dismissed. Thereafter, in 1863, the patent under which the defendants claim was issued.

The bill alleges that under the laws of Mexico the Indians in whose behalf the bill is brought became entitled to the 'continuous and undisturbed' occupancy and use of a part of the lands in the grant before it was made; that the Indians were in open, notorious, and adverse occupancy of such lands at the date of the grant; and that they ever since have remained in such occupancy, save as they have been more or less disturbed by the defendants and their predecessors at different times since the patent issued. The bill was brought in 1920. It does not question the validity of the grant or of the patent, but proceeds on the theory that the grant was made, and the title under the patent is held, subject to a 'perpetual right' in the Indians and their descendants to occupy and use the lands in question. The Indians never presented their claim to the commission, nor did the United States do so for them.

The courts below held that the claim of the Indians, if they had any, was abandoned and lost by the failure to present it to the commission, and that the patent issued on the confirmation of the grant passed the full title, unincumbered by any right in the Indians. In so holding, those courts gave effect to what they understood to be the decision of this court in Barker v. Harvey, 181 U. S. 481, 21 Sup. Ct. 690, 45 L. Ed. 963.

The questions to be considered here are whether the decision in that case covers this case, and, if it does, whether it should be followed or overruled. That was a suit by the owner of a Mexican grant in Southern California against Mission Indians to quiet his title under a confirmation and patent against their claim to a permanent right to occupy and use a part of the lands. In the state court, where the suit was brought, the plaintiff had a decree, which the Supreme Court of the state affirmed. [265 U.S. 483] In the right of the Indians the United States then brought the case here, and took charge of and presented it for them. This court sustained the decision of the state courts.

In the trial court the Indians had produced evidence tending to show that they and their ancestors had been occupying and using the lands openly and continuously from a time anterior to the Mexican grant, and that while they remained under the dominion of Mexico that government protected them in their right and recognized its permanency. But at the conclusing of the trial that evidence had been stricken out over their objection, because it appeared that their claim had not been presented to the commission under the act of 1851. On the evidence remaining the decree necessarily had been against them. Thus the question presented was whether there was error in striking out the evidence of their prior occupancy and use, and of the permanency of their right as recognized by Mexico.

This court, after observing that under the treaty with Mexico and the rules of international law the United States was bound to respect the rights of private property in the ceded territory, said there could be no doubt of the power of the United States, consistently with such obligation, to provide reasonable means for determining the validity of all titles within the ceded territory, to require all claims to lands therein to be presented for examination, and to declare that all not presented should be regarded as abandoned. The court further said the purpose of the act of 1851 was to give repose to titles as well as to fulfill treaty obligations, and that it not only permitted, but required, all claims to be presented to the commission, and barred all from future assertion which were not presented within the 2 years. Earlier decisions, showing the effect theretofore given to patents issued under the act, were cited and approved; and, coming [265 U.S. 484] to the provision that the patent shall not 'affect the interests of third persons,' the court held, as it had done in a prior case:

'The term 'third persons,' as there used, does not embrace all persons other than the United States and the claimants, but only those who hold superior titles, such as will enable them to resist successfully any action of the government in disposing of the property.'

The court then proceeded:

'If these Indians had any claims founded on the action of the Mexican government, they abandoned them by not presenting them to the commission for consideration, and they could not, therefore, in the language just quoted, 'resist successfully any action of the government in disposing of the property.' If it be said that the Indians do not claim the fee, but

only the right of occupation, and therefore they do not come within the provision of section 8 as persons 'claiming lands in California by virtue of any right or title derived from the Spanish or Mexican government,' it may be replied that a claim of a right to permanent occupancy of land is one of far-reaching effect, and it could not well be said that lands which were burdened with a right of permanent occupancy were a part of the public domain and subject to the full disposal of the United States. There is an essential difference between the power of the United States over lands to which it had had full title, and of which it has given to an Indian tribe a temporary occupancy, and that over lands which were subjected by the action of some prior government *622 to a right of permanent occupancy, for in the latter case the right, which is one of private property, antecedes and is superior to the title of this government, and limits necessarily its power *623. of disposal. Surely a claimant would have little reason for presenting to the land commission his claim to land, and securing a confirmation of that claim, if the only result was to transfer the naked fee to him, burdened by an Indian right of permanent occupancy.

[265 U.S. 485] 'Again, it is said that the Indians were, prior to the cession, the wards of the Mexican government, and by the cession became the wards of this government; that therefore the United States are bound to protect their interests; and that all administration, if not all legislation, must be held to be interpreted by, if not subordinate to, this duty of protecting the interests of the wards. It is undoubtedly true that this government has always recognized the fact that the Indians were its wards, and entitled to be protected as such, and this court has uniformly construed all legislation in the light of this recognized obligation. But the obligation is one which rests upon the political department of the government, and this court has never assumed, in the absence of congressional action, to determine what would have been appropriate legislation, or to decide the claims of the Indians as though such legislation had been had. Our attention has been called to no legislation by Congress having special reference to these particular Indians. By the act creating the land commission the commissioners were required (section 16) 'to ascertain and report to the Secretary of the Interior the tenure by which the mission lands are held, and those held by civilized Indians and those who are engaged in agriculture or labor of any kind, and also those which are occupied and cultivated by Pueblos or Rancheros Indians.' It is to be assumed that the commissioners performed that duty, and that Congress, in the discharge of its obligation to the Indians, did all that it deemed necessary, and as no action has been shown in reference to these particular Indians, or their claims to these lands, it is fairly to be deduced that Congress considered that they had no claims which called for special action.'

[1] Enough has been said to make it apparent that that case and this are so much alike that what was said and [265 U.S. 486] ruled in that should be equally applicable in this. But it is urged that what we have described as ruled there was obiter dictum, and should be disregarded, because the court there gave a second ground for its decision, which was broad enough to sustain it independently of the first ground. The premise of the contention is right, but the conclusion is wrong; for where there are two grounds, upon either of which an appellate court may rest its decision, and it adopts both, 'the ruling on neither is obiter, but each is the judgment of the court, and of equal validity with the other.' Union Pacific R. R. Co. v. Mason City & Ft. Dodge R. R. Co., 199 U. S. 160, 166, 26 Sup. Ct. 19, 20 (50 L. Ed. 134); Railroad Companies v. Schutte, 103 U. S. 118, 143, 26 L. Ed. 327.

[2][3] The question whether that decision shall be followed here or overruled admits of but one answer. The decision was given 23 years ago, and affected many tracts of land in California, particularly in the southern part of the state. In the meantime there has been a continuous growth and development in that section, land values have enhanced, and there have been many transfers. Naturally there has been reliance on the decision. The defendants in this case purchased 15 years after it was made. It has become a rule of property, and to disturb it now would be fraught with many injurious results. Besides, the government and the scattered Mission Indians have adjusted their situation to it in several instances. As long ago as Minnesota Co. v. National Co., 3 Wall. 332, this court said (page 334 [18 L. Ed. 42]):

'Where questions arise which affect titles to land, it is of great importance to the public that, when they are once decided, they should no longer be considered open. Such decisions become rules of property, and many titles may be injuriously affected by their change. Legislatures may alter or change their laws, without injury, as they affect the future only; but where courts vacillate, and overrule their own decisions on the construction of statutes affecting [265 U.S. 487] the title to real

property, their decisions are retrospective, and may affect titles purchased on the faith of their stability, Doubtful questions on subjects of this nature, when once decided, should be considered no longer doubtful or subject to change.'

That rule often has been applied in this and other courts, and we think effect should be given to it in the present case.

Decree affirmed.